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SENSITIVE
SIPDIS
PASS TO USTR/CROMERO AND DOL/TWEDDING

E.O. 12958: N/A
TAGS: [ELAB](#) [ECON](#) [ETRD](#) [DR](#)
SUBJECT: 2009 Labor Monitoring and Engagement With Free Trade
Agreement Countries (Dominican Republic)

REF: A) 09 STATE 129631; B) 08 SDO 00547

¶1. The following is Embassy Santo Domingo's submission (requested in reftel) for information on labor issues in the Dominican Republic.

Labor Issues Scene-Setter

¶2. Labor unions represent about eight percent of the formal workforce, according to labor union sources; 60-70 percent of the workforce is in the informal sector. The Dominican Constitution provides the right of workers to strike, to organize labor unions, and to join unions of their choice. The Dominican work force is regulated by the Dominican Labor Code, which establishes policies and procedures for employer-employee relationships (such as hours of work, overtime and vacation pay, severance regulations, and union registration).

¶3. Collective bargaining is legal in firms in which a union has gained the support of an absolute majority of the workers. Few companies, however, have collective bargaining pacts, partly due to onerous bureaucratic and judiciary hurdles. As a result, workers are often discouraged from organizing and pursuing collective bargaining agreements. The Labor Code further stipulates that workers cannot be dismissed because they belong to or organize trade unions. According to sources from the Free Trade Labor Confederation, however, firms have fired workers who were associated with union activities. As noted in the 2008 Human Rights Report, in response to attempts by workers to form unions, firms also start their own "yellow" unions or company-backed unions in an effort to dilute workers' union influence.

¶4. As noted in reftel B, the U.S. DOL maintains that the conditions of Haitian migrant workers in sugar production constituted forced labor. However, in 2009, Post interviewed NGOs, various cane workers, sugar cane companies and advocates working on behalf of cane workers, who said Haitians are no longer smuggled

into sugar cane plantations, held in locked enclosures, have their movement restricted by armed guards, or have their documents confiscated by employers.

15. The GoDR has been actively combating the issue of illegal child labor. The Ministry of Labor (SET) enforces child labor laws with 203 labor inspectors located in various offices in the country. In March 2009, the Ministry of Labor and the Consejo Nacional para la Ninez y la Adolescencia (CONANI) launched a program to train and give productive work experiences to youth ages 16 to 19 who will then be enrolled in the Ministry's national electronic job bank. Other projects under the Ministry of Labor include Proyecto Desarrollo Juvenil and Plan de Empleo Juvenil. The Ministry of Labor also has started a program called, "Action Child Labor," in eight bateyes in the provinces of Barahona, Bahoruco and Independencia.

16. Through the "Comply and Win" program, SET has a program educating employers on gender discrimination. SET also has an Office of Gender Issues. The Dominican Labor code provides for no less than 12 weeks of pre and post natal care.

17. The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week and stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. The law provides for premium pay for overtime. As mentioned in the 2008 Human Rights Report, conditions for agricultural workers are poor, with many workers working long hours and exposed to hazardous working conditions, including exposure to pesticides, excessive exposure to the sun, and the use of sharp and heavy tools.

18. Key organizations involved in labor rights in the DR: Movimiento Socio Cultural para los Trabajadores Haitianos (MOSCTHA), the Solidarity Center (AFL-CIO), Catholic Relief Services (CRS), Servicio Jesuitas a Refugiadas y Migrantes (SJRM), and Centro Dominicano de Asesoría e Investigaciones Legales (CEDAIL), and Federación Dominicana de Trabajadores de Zonas Francas (FEDOTRAZONAS).

19. POC for FTA labor matters: Dr. Andres Marranzini Gullon, Undersecretary for Labor, tel: (809) 535-4404, ext 2325, email: andres_marranzini@set.gov.do

Strategy Recommendations

10. Post has identified four key areas of weakness within the Dominican labor rights framework that should be priorities for USG dialogue with the DR, on assistance, and technical cooperation:

-- Although the government has made advances in inspections, union leaders continue to complain that inspectors lack sufficient training and do not respond well to complaints made by employees. Post considers training for SET labor inspectors a key priority.

-- Child labor remains a significant problem in several sectors, especially in the agriculture and domestic sectors. The GoDR needs to disseminate information on Dominican laws and regulations on child labor and legal age of work more widely in high risk areas and communities.

-- While labor inspectors check for health and safety violations, there are limited health and safety measures implemented in the workplace and employers are often unaware of proper health standards and regulations, especially in the construction and agriculture sectors. SET needs to establish and publicize better guidelines for workers in these sectors to emphasize proper safety equipment and information on the handling of hazardous materials.

-- Because SET's Office of Gender Issues does not address discrimination based on national origin, sexuality, disability, race or age; these areas should also be added to SET's mandate.

Cooperation Needs

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¶11. There are several key areas of labor cooperative assistance and dialogue:

-- Inspections: "Comply and Win," a regional CAFTA-DR program continues to work with the SET to increase quality, capacity, and effectiveness of labor inspections.

-- Information on labor rights: "Todos y Todas Trabajamos", a USDOL project that trains workers on their labor rights and provides legal services. There are several workers' rights centers established in the DR.

-- Workers' associations: The USG-funded Solidarity Center has made some advances with labor associations in the informal sector, and has also been working with domestic workers and street vendors to form worker unions.

-- Child labor: In January 2008, the USDOL, SET, and the Ministry of Education launched a project to support public-private partnerships aimed at preventing hazardous child labor by withdrawing and preventing 8,500 children from exploitive labor.

Promising areas for further cooperation include improving labor union capabilities, defining child labor, establishing written labor contracts, improving health and safety, facilitating migrant rights, and curbing discrimination based on age, race, gender, sexuality, and disability.

Lambert